

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DENISE M. GARY,

Plaintiff,

vs.

No. CIV 10-978-WDS

**MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration,**

Defendant.

**ORDER AWARDING ATTORNEY FEES AND EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER coming before the Court upon Plaintiff's Application for Attorney Fees and Expenses Under the Equal Access to Justice Act (Doc. No. 19), and Defendant's Amended Response thereto (Doc. No. 21), Defendant having no objection to Plaintiff's Application, and the Court being fully advised in the premises, finds that the Application is well taken and should be granted.

IT IS ORDERED that Plaintiff is awarded attorney fees in the amount of \$3,767.10 and expenses in the amount of \$350.00 pursuant to 28 U.S.C. § 2412(d). The award shall be made payable to Plaintiff as prevailing party in accordance with *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010) and *Manning v. Astrue*, 510 F.3d 1246, 1254 (10th Cir.2007).

IT IS FURTHER ORDERED that, if the Court also awards attorney fees under 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff

pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir.1986).



W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE

SUBMITTED AND APPROVED BY:

Electronically Submitted 7-5-11

MICHAEL LIEBMAN
Attorney for Plaintiff

E-Mail Approval Received 7-8-11

MANUEL LUCERO
Attorney for Defendant